

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRU-CON CONSTRUCTION CORPORATION,

Plaintiff,

CIV. NO. S-05-0583 LKK GGH

vs.

SACRAMENTO MUNICIPAL
UTILITY DISTRICT, et al,

Defendants.

SACRAMENTO MUNICIPAL
UTILITY DISTRICT,

Plaintiff,

CIV. NO. S-05-0617 LKK GGH

vs.

FRU-CON CONSTRUCTION CORPORATION, et al,

Defendants.

TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA,

Plaintiff,

CIV. NO. S-05-1961 LKK GGH

vs.

SACRAMENTO MUNICIPAL
UTILITY DISTRICT,

Defendant.

ORDER

1 The court is in receipt of the proposed discovery plan signed by counsel for Fru-
2 Con/Teichert and the Sacramento Municipal Utility District. In that plan, these parties reference
3 the attendance of a representative from Travelers (Case No. CIV-S 05-1961 filed September 27,
4 2005- now related to the Fru-Con and SMUD cases). However, the submitted discovery plan is
5 silent as to Travelers' agreement, disagreement or supplemental requests.

6 The court is not certain of the extent to which the interests of Travelers and Fru-
7 con/Teichert are aligned. The court is further unsure of the extent to which Travelers will be
8 relying on Fru-Con for its discovery. The court is unaware of state actions involving Travelers.
9 Nevertheless, the court is certain that a discovery plan should not issue unless it involves all
10 present parties to the federal actions.

11 Therefore, no later than November 11, 2005, Travelers shall file a joint statement
12 with Fru-Con and SMUD:

13 (1) declaring that it will rely on the discovery of the other parties, and plans to take no affirmative
14 part in discovery; or,

15 (2) declaring that it will conduct its own discovery to the extent that it desires to do so, and that it
16 agrees to the procedures and limitations set forth in the filed proposed discovery plan; or,

17 (3) declaring that it will conduct its own discovery to the extent that it desires to do so, noting
18 agreement or disagreement with the filed proposed discovery plan and making any supplemental
19 requests (after consulting with Fru-Con and SMUD counsel) which it desires the court to
20 consider.

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1 Fru-Con and SMUD will make known their own agreements or requests with
2 respect to Travelers discovery in this joint statement.

3 IT IS SO ORDERED.

4 DATED: November 4, 2005

5 /s/ Gregory G. Hollows

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GREGORY G. HOLLOWS
U. S. MAGISTRATE JUDGE

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